

GENERAL SERVICES ADMINISTRATION
NATIONAL ARCHIVES AND RECORDS SERVICES

PAGE

INTRASERVICE MEMORANDUM AND ENDORSEMENT

OF PAGES

SUBJECT OR TRANSACTION

Correspondence with Mr. Harold Weisberg

FROM	TO	DATE AND MESSAGE
NNF	NN N	3-6-73. I <u>did</u> have misgivings about the last phrase of the last sentence in the Garfinkel memo, particularly in light of his statement in the second paragraph that "several complex legal questions," including the question of whether working papers or drafts etc. are in fact records for the purposes of the Act, "need not be examined until such time as there is an administrative appeal from their denial." This seems to contradict the last sentence in which he goes beyond our initial draft and deliberately injects this issue by including the reference to "working papers which are not records for the purposes of the Freedom of Information Act." I informed Mark Eckhoff and Marion Johnson of my misgivings when I sent the file down for their comments. Mr. Johnson, as a lawyer, then discussed the matter with Mr. Garfinkel and their conversation is summarized on the attached routing slip. Mr. Garfinkel apparently feels that it is better legal procedure to give all possible reasons for withholding documents in the beginning, even if you withdraw one or more arguments on appeal, than to be in the position of having to produce an additional reason on appeal. Perhaps it would be desirable to get a policy decision from the Justice Department through its Freedom of Information Committee as to whether such "working papers" should be released and this can be done if Mr. Weisberg appeals the denial. It is my understanding that certain working papers among the Warren Commission records have been made available to Weisberg, presumably as "records." The material currently at issue appears to

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Regulations for Reference Service on Warren Commission Items of Evidence.

FROM

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DATE AND MESSAGE

NNF

NN

1-31-72. I think it is interesting to note that Mr. Fisher's position regarding publication of these regulations in the Federal Register is the exact opposite of that taken by Mr. Robert A. Prince, Assistant General Counsel, in his memorandum of June 16, 1971 to the Archivist. In his memo Mr. Prince stated that "we do not feel publication of them [the regulations] in the Federal Register is either necessary or desirable at this time." I presume, however, that we must now be guided by Mr. Fisher's determination in this matter.

Jane F. Smith
JANE F. SMITH
Director

Civil Archives Division

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